IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3350 OF 2005

Mrs. Jayshree Ramangiri Goswami ...Applicant

V/s.

The State of Maharasthra ...Respondent

Shri. Amin H. Solkar for the Applicant.
Mr. R.Y.Mirza A.P.P. for the Respondent.

CORAM : A.S. OKA, J.
DATED : JUNE 17, 2005.

P.C.:
1. Heard learned Counsel appearing for the parties. An offence has been registered against the Applicant and others including her husband and her son under Sections 302, 498-A read with section 34 of the Indian Penal Code.

2. The deceased is the daughter-in-law of the Applicant. The complainant is the father of the deceased daughter-in-law of the Applicant. The marriage between the deceased and the son of the Applicant was solemnised on 27th may, 2003 and a baby girl is born which is at present nine months old. The allegation in the complaint is that there was a demand for dowry by the in-laws of the deceased and as a result of failure to comply with demand of dowry, the deceased was being abused and assaulted by her in-laws. The case of the complainant is that on 16th

April, 2005 the Applicant's son called him and informed him that the deceased had left the house at 6.00 a.m. on that day without informing anybody and she has not returned. On 18th April, 2005 in the morning the complainant was informed that the dead body of the deceased was found floating in river Ulhas. Therefore, an offence has been registered on 18th April, 2005 against the Applicant, her husband and her son. The Applicant was arrested on 19th April, 2005. It is not in dispute that her husband and son are in the custody as of today.

3. The learned Counsel for the Applicant submitted that there is no one to look after the grand-daughter whose age is only nine months. He pointed out that custodial interrogation of the Applicant is not required. He pointed out relevant averments in the reply filed by the Investigating Officer. He pointed out the entries in various columns of Post Mortem notes The Post Mortem notes disclose that except two abrasions there was no external injuries on the person of the deceased. The P.M. Notes show that opinion as to probable cause of death is reserved as viscera has been preserved and sent for chemical analysis. He submitted that this is not a case where section 302 of the Indian Penal Code can be applied.

4. The learned A.P.P. has opposed the Application. The learned A.P.P. however, on the instructions of the Investigating Officer who is stated to be personally present in the Court stated that as the Applicant is a woman her presence for custodial interrogation is not required at this stage.

5. Section 302 of the Indian Penal Code has been applied. Considering the P.M.Notes, at this stage it is very difficult to say that there is material to establish complicity of the Applicant in the offence punishable under section 302 of the said Code. The allegations made by the complainant as regards offence under section 498-A of the Indian Penal Code are general in nature. The Applicant is a 48 years old woman and it is stated that her nine month old grand-daughter is kept with the relatives as the Applicant’s husband and son are in custody.

6. Hence, case is made out for enlarging the Applicant on bail as custodial interrogation of the Applicant is not required. As investigation is still in progress, the Applicant will have to attend the Police Station as and when called upon to do so till the chargesheet is filed.

7. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with C.R.No. I 39 of 2005 registered with Badlapur Police Station, District Thane subject to furnishing P.R.Bond in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) Bail is granted subject to condition that till the chargesheet is filed, the Applicant will remain present in the concerned Police Station for the purposes of investigation as and when called upon to do so and will co-operate for investigation.

iii) The Applicant will also co-operate with the concerned Court for early disposal of the trial.

iv)The Application is disposed of in the above terms.

JUDGE